

1 MATERN LAW GROUP
Matthew J. Matern (SBN 159798)
2 mmatern@maternlawgroup.com
Tagore O. Subramaniam (SBN 280126)
3 tagore@maternlawgroup.com
1230 Rosecrans Avenue, Suite 200
4 Manhattan Beach, California 90266
5 Telephone: (310) 531-1900
6 Facsimile: (310) 531-1901

7 Attorneys for Plaintiff
PETER GALLAGHER
8

9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

12 PETER GALLAGHER, an
13 individual,

14 Plaintiff,

15 vs.

16 LIONS GATE ENTERTAINMENT
INC., a Delaware corporation;
17 LIONS GATE FILMS INC., a
Delaware corporation; MUTANT
18 ENEMY, INC., a California
corporation; JOSEPH “JOSS”
19 WHEDON, an individual;
ANDREW GODDARD, an
20 individual; and DOES 1 through 50,
inclusive,

21 Defendants.
22
23
24
25
26
27
28

Case No. 2:15-cv-02739-ODW(Ex)

**FIRST AMENDED COMPLAINT
FOR DAMAGES FOR:**

1. COPYRIGHT INFRINGEMENT

DEMAND FOR JURY TRIAL

Judge: Otis D. Wright, II
Courtroom: 11

Complaint Filed: April 13, 2015
Trial Date: None Set

1 Plaintiff PETER GALLAGHER (“PLAINTIFF”), an individual, demanding
 2 a jury trial, hereby alleges as follows against Defendants LIONS GATE
 3 ENTERTAINMENT INC., a Delaware corporation, LIONS GATE FILMS INC.,
 4 a Delaware corporation, MUTANT ENEMY, INC., a California corporation,
 5 JOSEPH “JOSS” WHEDON, an individual, ANDREW GODDARD, an
 6 individual, and DOES 1 through 50, inclusive (collectively, “DEFENDANTS”):

7 **JURISDICTION AND VENUE**

8 1. This is an action for copyright infringement arising under the
 9 Copyright Act of 1976, 17 U.S.C. § 101 *et seq.* This Court has jurisdiction of this
 10 action under 28 U.S.C. §§ 1331, 1338(a) and 1338(b). PLAINTIFF’s alleged
 11 damages exceed the jurisdictional minimum of this Court.

12 2. Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400(a) as
 13 a substantial part of the events or omissions giving rise to the claim occurred, and
 14 the defendants and/or their agents reside and/or maintain their principal place of
 15 business, in this judicial district.

16 **PARTIES**

17 3. PLAINTIFF is an individual who resides in Flagstaff, Arizona.
 18 PLAINTIFF is the author and owner of all exclusive rights under copyright,
 19 including those codified in 17 U.S.C. § 106, of the literary work entitled *The Little*
 20 *White Trip, a night in the pines* (hereafter “the Book” or “Little White Trip”).

21 4. PLAINTIFF is informed and believes, and on that basis alleges, that
 22 Defendant LIONS GATE ENTERTAINMENT INC. (“LGE”) is a corporation
 23 existing under the laws of Delaware and maintaining its principal place of business
 24 at 2700 Colorado Avenue, Suite 200, Santa Monica, California 90404. PLAINTIFF
 25 is further informed and believes, and on that basis alleges, that LGE is qualified to
 26 do business and is doing business in the State of California, County of Los Angeles.
 27 PLAINTIFF is also informed and believes, and on that basis alleges, that LGE is a
 28 motion picture production company and distributor, with numerous film credits,

1 and according to the Internet Movie Database (“IMDB”) is one of the production
2 companies and distributors of the motion picture entitled *The Cabin in the Woods*
3 (hereafter the “Film” or “Cabin in the Woods”), released theatrically on April 13,
4 2012 in the United States.

5 5. PLAINTIFF is informed and believes, and on that basis alleges, that
6 Defendant LIONS GATE FILMS INC. (“LGF”) is a corporation existing under the
7 laws of Delaware and maintaining its principal place of business at 2700 Colorado
8 Avenue, Suite 200, Santa Monica, California 90404. PLAINTIFF is further
9 informed and believes, and on that basis alleges, that LGF is qualified to do
10 business and is doing business in the State of California, County of Los Angeles.
11 PLAINTIFF is also informed and believes, and on that basis alleges, that LGF is a
12 motion picture production company and distributor, with numerous film credits,
13 and according to IMDB is one of the production companies and distributors of the
14 Film.

15 6. PLAINTIFF is informed and believes, and on that basis alleges, that
16 Defendant MUTANT ENEMY, INC. (“MUTANT ENEMY”) is a corporation
17 existing under the laws of California and maintaining its principal place of business
18 in the State of California, County of Los Angeles. PLAINTIFF is further informed
19 and believes, and on that basis alleges, that MUTANT ENEMY is qualified to do
20 business and is doing business in the State of California, County of Los Angeles.
21 PLAINTIFF is also informed and believes, and on that basis alleges, that MUTANT
22 ENEMY is a motion picture production company, with numerous film and
23 television credits, and according to IMDB is one of the production companies of the
24 Film.

25 7. PLAINTIFF is informed and believes, and on that basis alleges, that
26 Defendant JOSEPH “JOSS” WHEDON (“WHEDON”) is an individual residing in
27 the city of Santa Monica in Los Angeles County, California. PLAINTIFF is further
28 informed and believes, and on that basis alleges, that WHEDON is a writer,

1 director, and producer with numerous film and television credits, and according to
2 IMDB is the producer and a credited writer of the Film.

3 8. PLAINTIFF is informed and believes, and on that basis alleges, that
4 Defendant ANDREW GODDARD ("GODDARD") is an individual residing in Los
5 Angeles County, California. PLAINTIFF is further informed and believes, and on
6 that basis alleges, that GODDARD is a writer, director, and producer with
7 numerous film and television credits, and according to IMDB is the director and a
8 credited writer of the Film.

9 9. The true names and capacities of Defendants DOES 1 through 50,
10 inclusive, are presently unknown to PLAINTIFF, who therefore sues these
11 Defendants by such fictitious names. PLAINTIFF is informed and believes, and
12 thereon alleges, that each Defendant designated as a DOE is in some manner
13 responsible for the occurrences alleged herein and that the injuries and damages
14 suffered by PLAINTIFF were proximately caused by the conduct of such DOE
15 Defendants. PLAINTIFF will seek leave of Court to amend this Complaint to allege
16 the true names and capacities of each DOE Defendant, together with such
17 allegations as may be appropriate, when their names have been ascertained.

18 10. PLAINTIFF is informed and believes, and thereon alleges, that, at all
19 times material to this Complaint, each Defendant was the agent, servant, employee,
20 partner, successor, assignee, alter ego, integrated enterprise, co-conspirator, joint
21 venture and/or franchisee of each of the remaining Defendants herein, and was at
22 all times acting within the course and scope of said agency, service, employment,
23 partnership, integrated enterprise, joint venture and/or franchise. PLAINTIFF is
24 further informed and believes, and thereon alleges, that each act and omission
25 alleged herein on the part of any one Defendant was done with the approval and
26 consent and was ratified by each of the remaining Defendants.

27 11. PLAINTIFF is informed and believes, and thereon alleges, that, at all
28 times material to this Complaint, each Defendant may be held liable for the

1 infringing acts committed by another Defendant to the extent that each Defendant
2 had the right and ability to control the infringing activities alleged herein and had a
3 direct financial interest in such activities, regardless of whether each Defendant had
4 intent or knowledge of the infringement alleged herein. Furthermore, PLAINTIFF
5 is informed and believes, and thereon alleges, that at all relevant times mentioned in
6 this Complaint each Defendant who knowingly induced, caused, or materially
7 contributed to the infringement alleged herein by another Defendant, but who may
8 not have committed or participated in the infringing acts himself or itself, may be
9 held liable as a contributory infringer as each such Defendant had knowledge, or
10 reason to know, of the infringement.

11 **BACKGROUND FACTUAL ALLEGATIONS**

12 12. PLAINTIFF is the author and owner of all exclusive rights under
13 copyright of the literary work entitled *The Little White Trip, a night in the pines*
14 (the "Book"). PLAINTIFF registered the Book with the Writers Guild of America
15 ("WGA") in or about July 2007. PLAINTIFF registered the Book for copyright
16 registration with the United States Copyright Office on March 20, 2015
17 (Registration Number TX0008004920).

18 13. In or about the middle of 2004, PLAINTIFF developed the idea for
19 what would become the Book. PLAINTIFF subsequently created an outline of the
20 idea for the Book in 2004.

21 14. After several months of intensive writing, PLAINTIFF completed an
22 initial draft of the Book in between September 2004 and January 2005.

23 15. On May 11, 2005, PLAINTIFF had an original unedited manuscript
24 bound and notarized.

25 16. From May 2005 through part of 2006, PLAINTIFF worked with
26 various editors to finalize the Book.

27 17. In or about June 2006, PLAINTIFF published and made available for
28 sale approximately 2,500 copies of the Book.

1 18. PLAINTIFF subsequently began grassroots efforts to sell the Book in
2 Los Angeles, California. PLAINTIFF sold copies of the Book on the Venice Beach
3 Boardwalk, the Santa Monica Free Speech Zone on the popular Third Street
4 Promenade, and outside the Chinese Theatre on the Hollywood Walk of Fame. The
5 majority of PLAINTIFF's sales were done in the Venice Beach and Santa Monica,
6 California areas. The Venice Beach boardwalk where PLAINTIFF sold the Book
7 encompasses approximately 2.5 kilometers and receives millions of visitors each
8 year. PLAINTIFF's marketing efforts further included distributing approximately
9 ten thousand fliers in the Santa Monica and Venice, California areas. Additionally,
10 PLAINTIFF maintained a website and Myspace page for the Book. The Book was
11 further available at multiple retail locations, including Small World Books in
12 Venice, California and online retailers such as Amazon.com. The Book was
13 discussed on multiple blogs as well as social media websites such as
14 Goodreads.com.

15 19. During this time, PLAINTIFF was contacted by multiple credited
16 entertainment industry producers who expressed interest in the Book.

17 20. DEFENDANTS WHEDON, LGF, and LGE currently reside and
18 operate out of Santa Monica, California, a short distance from where the Book was
19 sold.

20 21. In or about September 2006, PLAINTIFF received an email from the
21 chair of the Johnnie Cochran Middle School English department expressing interest
22 in the Book. The school subsequently ordered 300 copies of the Book and, for a
23 period of time, it was required reading.

24 22. Having nearly sold out the first print of the Book, in or about June,
25 2007, Plaintiff had an additional 5,000 copies of the Book printed.

26 23. As a result of PLAINTIFF's successful marketing and sales, on April
27 2, 2007 the Long Beach Gazette published a profile on PLAINTIFF discussing the
28 Book. The Long Beach Gazette quoted PLAINTIFF as marketing the Book as "a

1 different way of telling a story you think you've heard before." The tagline for the
2 Film is strikingly similar: "You think you know the story."

3 24. In or about July 2007, PLAINTIFF registered the Book with the
4 Writers Guild of America.

5 25. From approximately June 2006 to November 2007, PLAINTIFF
6 distributed and sold approximately 5,000 copies of the Book, primarily in the Santa
7 Monica and Venice Beach areas.

8 26. On April 13, 2012, DEFENDANTS theatrically released the Film in
9 the United States.

10 27. Like the Book, the Film tells the story of five friends (three males and
11 two females) between the ages of 17 and 22 who take a trip to a remote cabin
12 in the woods. The cabin's previous inhabitants were murdered by the father of the
13 family, who returns to terrorize the group of friends. Throughout, the friends are
14 being filmed and manipulated by persons behind the scenes, inadvertently playing
15 characters in a real-life horror show. The similarities between the two works are
16 striking. Even the names of the lead characters are similar. In the Book, the lead
17 female blond is named Julie, and in the Film it's Jules. In the Book, the lead dark-
18 haired female is named Dura, and in the Film it's Dana. Similarly, the cabin in the
19 Book is called the Brinkley place, whereas it is the Buckner place in the Film.

20 28. A review of the IMDB webpage for the Film and the promotional
21 movie poster for the Film found therein and elsewhere confirms that WHEDON is a
22 producer and a credited writer of the Film, GODDARD is the director and a
23 credited writer of the Film, LGE and LGF are production companies and
24 distributors of the Film, MUTANT ENEMY is a production company of the Film,
25 and the Film was released theatrically on April 13, 2012 in the United States.

26 29. PLAINTIFF is informed and believes, and on that basis alleges, that
27 the Film borrows heavily from the Book. Comparing the Book to the Film, the plot,
28 stories, characters, sequence of events, themes, dialogue, and incidents portrayed in

1 the two works are fictional and, in many respects, the elements in the two works are
 2 virtually identical. These substantially similar elements, coupled with
 3 DEFENDANTS' access to PLAINTIFF's Book, which was widely disseminated in
 4 the Southern California area, and on the Internet, where it was available for sale on
 5 websites such as Amazon.com, leave little doubt that numerous substantive original
 6 elements of the Book are copied in the Film.

7 30. In *The Cabin in the Woods: The Official Visual Companion*, a book
 8 published in 2011 before the release of the Film, WHEDON and GODDARD
 9 claimed to have written the Film in three days in a hotel in Santa Monica, after
 10 WHEDON wrote an "outline." WHEDON stated, "Would I like to be able to write
 11 all my screenplays in three days [laughs]? Yeah, that'd be great. That doesn't
 12 happen. This was a very particular thing, because there was so much structure in
 13 this outline that we knew exactly what we needed to accomplish from scene to
 14 scene."

15 **FIRST CLAIM FOR RELIEF**
 16 **(COPYRIGHT INFRINGEMENT)**
 17 **[17 U.S.C. § 101 *et seq.*]**
 18 **(Against All DEFENDANTS)**

19 31. PLAINTIFF re-alleges each and every allegation set forth in
 20 Paragraphs 1 through 30, inclusive, and incorporates them herein by this reference.

21 32. PLAINTIFF is currently, and at all relevant times has been, the sole
 22 owner of all right, title, and interest in and to the copyrights in the Book.

23 33. PLAINTIFF is informed and believes, and on that basis alleges, that
 24 DEFENDANTS were knowingly and willfully involved in the copying of the Book
 25 and original elements therein to create a work substantially similar to and derivative
 26 of PLAINTIFF's copyrighted Book. PLAINTIFF is informed and believes that a
 27 non-exhaustive summary of substantial similarities between the respective works
 28 includes but is not limited to:

1 (a) THEME

2 Each work has a core theme of horror, resulting from real people
3 unknowingly being manipulated by third parties. These thematic similarities are
4 echoed by statements from the Film's creators, WHEDON and GODDARD. When
5 asked in an interview what the original idea for the Film was at its core, WHEDON
6 responded by stating, "[T]he original idea was exactly what the movie is, which is,
7 you play your normal horror movie —five kids go to a cabin in the woods—and
8 you find out that everything they're doing is being manipulated." GODDARD
9 stated in an interview that "the base element of [the Film] – [is] how do kids do this
10 [act like they do in horror films], what if someone was making them behave that
11 way."

12 Both works display a self-referential awareness of classic horror movie
13 tropes and insert third-party puppeteers to manipulate the characters for the
14 fulfillment of narrative requirements and the enjoyment of others. In both works,
15 the third party manipulators struggle to make the friends follow the predetermined
16 narrative structure or "script." From a thematic perspective, each work provides a
17 commentary on the use of classic horror devices as a mechanism for satisfying
18 consumer desires and expectations.

19 (b) PLOT

20 Like the Book, the Film tells the story of five friends (three guys and two
21 girls) between the ages of 17 and 22 who take a take a trip to a remote cabin in the
22 woods. The cabin's previous inhabitants were murdered by the father of the family,
23 who returns to terrorize the group of friends. In the end, it is revealed to the friends
24 that they are being filmed and manipulated by persons behind the scenes, thus
25 becoming inadvertent characters in a real-life horror show for the enjoyment of
26 others.

27 (c) SETTING

28 The setting of each work takes place in a remote cabin in the woods lacking

1 cell phone reception, where the prior inhabitants of the cabin were murdered. The
2 vehicle, travel, and cabin in each work is filmed, monitored, and manipulated by
3 third parties, who have planted crew members along the way as well as hidden
4 cameras in everyday household objects.

5 (d) CHARACTERS

6 The similarities between the characters in both works are striking. Both
7 works have five lead characters between the ages of 17 and 22 (three males and two
8 females). The group of friends consists of two couples and one male. The female
9 leads in both works include a bubbly blonde with blue eyes, and a sweet dark-
10 haired female who recently ended a relationship. Even the names of the lead
11 characters are similar. The name of the lead blonde in the Book is Julie and in the
12 Film it is Jules. Similarly the name of the lead dark haired female in the Book is
13 Dura, and in the Film it is Dana. Even the name of the remote cabin the characters
14 travel to is similar. The cabin in the book is referred to as the Brinkley place and in
15 the film it is the Buckner place. At the beginning of both works we see the dark-
16 haired female lead (Dura/Dana) beginning a romantic relationship with the more
17 sensitive and mature male (Matt/Holden) which culminates in a love scene in front
18 of the fireplace. Similarly, in both works the female blonde lead (Julie/Jules) has a
19 relationship with the strong, charismatic male character who drinks regularly and
20 looks like a movie star (Ian/Curt). The appearance and behavior of the third male
21 lead (Sam/Marty) is similar in both works. Both have quirky personalities, have
22 messy dirty blonde hair, appear to wear a grey shirt and jeans throughout the film,
23 smoke marijuana, and enjoy gazing up at the stars. Moreover, both are smart, non-
24 athletic, and single.

25 (e) MOOD

26 Both works have a similar mood in that they are suspenseful horror films that
27 begin with the enthusiasm of a group of friends going on a trip, followed by the
28 excitement of a night of drinking and romance at a cabin in the woods. The mood

1 then shifts to a series of frightening murders while at the same time the friends
2 gradually become aware that they are being manipulated and punished by a
3 controlling outside force. This culminates in a surprise reveal where the lead
4 characters learn they are being manipulated for the enjoyment of third parties.

5 (f) PACE

6 The pace of each work is extremely similar. Both are horror films,
7 punctuated with a series of deaths, and enhanced by the unwitting characters
8 becoming aware that these terrible events are not random, but orchestrated against
9 them by an unknown force. This is followed by a surprise reveal that the lead
10 characters are being manipulated for the enjoyment of third parties. Each work
11 begins moderately paced, with a focus on character development and a blossoming
12 relationship. Ultimately, both stories build into a fast-paced suspense horror film
13 where the friends engage in a series of wrong turns and struggle to resolve
14 unanswered question which are only revealed to them at the end.

15 (g) SEQUENCE OF EVENTS

16 Both stories start off with the preparations of a lighthearted trip amongst
17 friends. The friends take a large borrowed vehicle to a remote cabin. Unbeknownst
18 to the friends the interior of the vehicle is rigged with hidden cameras and
19 monitored by third parties behind the scenes. The details of where the cabin is
20 located are vague and uncertain. On the way, in both stories, the friends make a
21 stop which puts them in a tense, almost violent, interaction with an older white
22 male who has been placed there by the watching parties behind the scenes. The man
23 knows of the cabin and the history of the previous inhabitants. He makes an
24 unnerving forewarning about the cabin, and the friends' safety if they continue on
25 their path, but the friends ignore him.

26 Eventually, the friends arrive at the cabin, which is so remote that cell phones
27 cannot be used. There is a mix of curiosity and weariness about the free place of
28 lodging, but the friends settle in. On that first night, the friends stumble upon an old

1 storage space (attic /basement) and they venture inside. They find old items from
2 the previous owners, clay dolls, figurines and a framed photograph of the family
3 (Brinkley family/ Buckner family) who previously inhabited the cabin. The friends
4 are unnerved after their time in the storage space but shake it off and proceed to
5 drink, play games and have fun.

6 Unbeknownst to the friends, the cabin as well as the surrounding woods are a
7 controlled "set" being monitored by unidentified persons behind the scenes who
8 will soon trap, chase, and terrorize the friends. These persons intend to turn the
9 innocent group of friends into the real-life characters in a horror story.

10 Later that night, the established couple (Ian and Julie /Curt and Jules) go off
11 to be alone and the courting couple (Matt and Dura/ Holden and Dana) have a
12 romantic scene on the couch in front of the fireplace, which is witnessed by the odd
13 man out (Sam/ Marty).

14 In both stories, the first murder takes place in the woods. The friends back at
15 the cabin are unaware of this until they are told about the blood and gore witnessed
16 by their friend(s) who return from the woods frazzled. In both stories, the villain
17 shatters through a plate glass window, grabs, stabs, and drags a lead character away
18 into the night.

19 The remaining friends try to devise a plan and make sense out of what is
20 going on, but they are trapped, and the people behind the scenes head them off at
21 every turn. Little by little, they begin to suspect that the things that are happening to
22 them are not random, but carried out by some third party controlling the situation.
23 This culminates in both stories when a character accidentally knocks over a ceramic
24 object (vase/ lamp) and finds a hidden camera in the shattered pieces. The people
25 behind the scenes scramble as they watch him holding the tiny black camera in his
26 hand, and they don't know what to do. But then they are relieved and surprised to
27 see the killer show up and distract the character's attention.

28

In the end, one couple and one male are left alive, but then the male from the remaining couple is killed, leaving just two friends. The friends cling to each other and discuss a last resort escape plan. As the story comes to a climax, the two friends find themselves behind the scenes of the project that they have unwittingly become a part of, and everything becomes clear when they are approached by the "director" who informs them that they have been manipulated by third parties.

(h) SCENE SIMILARITIES

A non-exhaustive list of some of the specific scene similarities between each work is set forth below:

| | <i>The Little White Trip, a night in the pines</i> | <i>The Cabin in the Woods</i> |
|----|---|---|
| 1. | A group of five friends (three males and two females) who recently graduated from high school go on a getaway to a remote cabin in the woods. The group consists of one couple, one newly courting couple, and one odd man out. | A group of five college friends (three males and two females) go on a getaway to a remote cabin in the woods. The group consists of one couple, one newly courting couple, and one odd man out. |
| 2. | The cabin is near a lake. It is a place of free lodging, offered up by a third party. The location is isolated, so far off the grid that cell phones cannot be used. | The cabin is near a lake. It is a place of free lodging, offered up by a third party. The location is isolated, so far off the grid that neither GPS nor cell phones can be used. |
| 3. | The friends are unaware that the cabin is actually a controlled "set" where they are being filmed, monitored, and manipulated by a | The friends are unaware that the cabin is actually a controlled "set" where they are being filmed, monitored, and manipulated by a |

| | | | |
|----|----|--|-------------------------------------|
| 1 | | third party. This third party intends | third party. This third party |
| 2 | | to put the friends through terrible | intends to put the friends through |
| 3 | | and bloody events, casting them as | terrible and bloody events, casting |
| 4 | | real-life characters in a horror story | them as real-life characters in a |
| 5 | | for the enjoyment of others. | horror story for the enjoyment of |
| 6 | | | others. |
| 7 | 4. | The name of the cabin which the | The name cabin which the friends |
| 8 | | friends go to is referred to as the | go to is referred to as the |
| 9 | | “Brinkley” place. | “Buckner” place. |
| 10 | | | |
| 11 | 5. | The names of the female lead | The names of the female lead |
| 12 | | characters are Julie (blond hair and | characters are Jules (blond hair |
| 13 | | blue eyes) and Dura (dark hair). | and blue eyes) and Dana (dark |
| 14 | | | hair). |
| 15 | 6. | The blond-haired, blue-eyed female | The blond-haired, blue-eyed |
| 16 | | character (Julie) is showy, sexy, and | female character (Jules) is showy, |
| 17 | | loud. She is in a relationship with | sexy, and loud. She is in a |
| 18 | | the strong, charismatic male | relationship with the strong, |
| 19 | | character who drinks regularly and | charismatic male character who |
| 20 | | looks like a movie star (Ian). | drinks regularly looks like a movie |
| 21 | | | star (Curt). |
| 22 | 7. | The shy, innocent, dark-haired | The shy, innocent, dark-haired |
| 23 | | female character (Dura) has recently | female character (Dana) has |
| 24 | | exited a hurtful relationship. She is | recently exited a hurtful |
| 25 | | single when the story opens, but a | relationship. She is single when |
| 26 | | relationship develops between her | the film opens, but a relationship |
| 27 | | and the sensitive male lead (Matt) | develops between her and the |
| 28 | | | |

| | | | |
|----|-----|---------------------------------------|------------------------------------|
| 1 | | as the story progresses. | sensitive male lead (Holden) as |
| 2 | | | the film progresses. |
| 3 | 8. | The third male lead (Sam) is an | The third male lead (Marty) is an |
| 4 | | outsider who is not romantically | outsider who is not romantically |
| 5 | | involved with any of the female | involved with any of the female |
| 6 | | characters. He has a quirky | characters. He has a quirky |
| 7 | | personality and messy, dirty-blond | personality and messy, dirty-blond |
| 8 | | hair. He wears a gray shirt and jeans | hair. He appears to wear a gray |
| 9 | | throughout the story. | shirt and jeans throughout the |
| 10 | | | film. |
| 11 | 9. | The friends take a large borrowed | The friends take a large borrowed |
| 12 | | vehicle (SUV) to the cabin. | vehicle (motor home) to the cabin. |
| 13 | | Unbeknownst to the friends, the | Unbeknownst to the friends, the |
| 14 | | vehicle is rigged with cameras and | vehicle is rigged with cameras and |
| 15 | | being watched by third parties. | being watched by third parties. |
| 16 | 10. | On the way to the cabin, the friends | On the way to the cabin, the |
| 17 | | become confused about directions | friends become confused about |
| 18 | | and make a stop where they run into | directions and make a stop where |
| 19 | | a strange and tense situation. They | they run into a strange and tense |
| 20 | | encounter a gruff, older white male | situation. They encounter a gruff, |
| 21 | | who views the friends skeptically as | older white male who views the |
| 22 | | unwanted guests on his property. | friends skeptically as unwanted |
| 23 | | This man works for the controlling | guests on his property. This man |
| 24 | | parties behind the scenes. | works for the controlling parties |
| 25 | | | behind the scenes. |
| 26 | 11. | The man seems edgy and | The man seems edgy and |
| 27 | | confrontational when the friends ask | confrontational when the friends |
| 28 | | | |

| | | | |
|----|-----|--|--------------------------------------|
| 1 | | about the cabin. He knows the | ask about the cabin. He knows the |
| 2 | | history of the place and its former | history of the place and its former |
| 3 | | inhabitants. The man warns the | inhabitants. The man warns the |
| 4 | | friends about their safety if they | friends about their safety if they |
| 5 | | choose to continue their journey to | choose to continue their journey to |
| 6 | | the cabin, but the friends do not take | the cabin, but the friends do not |
| 7 | | him seriously. A fist fight between | take him seriously. A fist fight |
| 8 | | the man and the friends is narrowly | between the man and the friends is |
| 9 | | avoided, and the friends head on to | narrowly avoided, and the friends |
| 10 | | the cabin. | head on to the cabin. |
| 11 | 12. | On the first night in the cabin, the | On the first night in the cabin, the |
| 12 | | characters stumble on an old storage | characters stumble on an old |
| 13 | | area (attic). | storage area (basement). |
| 14 | 13. | In the storage area, the friends | In the storage area, the friends |
| 15 | | uncover some objects which | uncover some objects which |
| 16 | | belonged to the cabin's previous | belonged to the cabin's previous |
| 17 | | owner: toy figurines, dolls, and a | owner: toy figurines, dolls, a |
| 18 | | framed photograph of the family | diary, and a framed photograph of |
| 19 | | which was taken at the cabin. | the family which was taken at the |
| 20 | | | cabin. |
| 21 | 14. | In the storage area, the female lead | In the storage area, the female lead |
| 22 | | (Julie) finds an object (a Hummel | (Jules) finds an object (an amulet) |
| 23 | | figurine) that she would like to take. | that she would like to take. |
| 24 | | | |
| 25 | 15. | The cabin's previous owners (the | The cabin's previous owners (the |
| 26 | | Brinkleys) have a haunted history. | Buckners) have a haunted history. |
| 27 | | The father killed the mother and | The father killed the mother and |
| 28 | | | |

| | | | |
|----|-----|--|---------------------------------------|
| 1 | | their three children. | the rest of the family (three |
| 2 | | | children – Anna, Judda, and |
| 3 | | | Matthew) died. |
| 4 | 16. | After the scene in the attic, the tone | After the scene in the basement, |
| 5 | | is unnerving, but the friends shake it | the tone is unnerving, but the |
| 6 | | off and begin to drink alcohol and to | friends shake it off and begin to |
| 7 | | play games. | drink alcohol and to play games. |
| 8 | 17. | At the end of the first night, one of | At the end of the first night, one of |
| 9 | | the couples (Julie and Ian) leaves | the couples (Jules and Curt) leaves |
| 10 | | the others to be together (upstairs in | the others to be together (in the |
| 11 | | bed). The newly courting couple | woods). The newly courting |
| 12 | | (Dura and Matt) have a romantic | couple (Dana and Holden) have a |
| 13 | | scene in front of the fireplace, | romantic scene in front of the |
| 14 | | which is witnessed by the odd man | fireplace, which is witnessed by |
| 15 | | out (Sam). | the odd man out (Marty). |
| 16 | 18. | The outsider male lead (Sam), who | The outsider male lead (Marty), |
| 17 | | is not romantically involved with | who is not romantically involved |
| 18 | | any of the females, smokes | with any of the females, smokes |
| 19 | | marijuana and walks outside to look | marijuana and walks outside to |
| 20 | | at the stars. | look at the stars. |
| 21 | 19. | The first “killing” happens outside | The first killing happens outside |
| 22 | | of the cabin, in the woods. The | of the cabin, in the woods. The |
| 23 | | remaining friends, still back at the | remaining friends, still back at the |
| 24 | | cabin, are unaware of this but they | cabin, are unaware of this but they |
| 25 | | soon find out when Matt and Dura | soon find out when Curt return to |
| 26 | | return to the shelter of the cabin | the shelter of the cabin with news |
| 27 | | with news of the blood and gore | of the blood and gore he’s |
| 28 | | | |

| | | | |
|----|-----|---------------------------------------|--------------------------------------|
| 1 | | they've witnessed. | witnessed. |
| 2 | 20. | The first "death" is hard to believe | The first death is hard to believe |
| 3 | | for the friends, but the appearance | for the friends, but the appearance |
| 4 | | of a severed body part (arm) | of a severed body part (head) |
| 5 | | confirms any doubts that the friends | confirms any doubts that the |
| 6 | | may have had of the "killing." | friends may have had of the |
| 7 | | | killing. |
| 8 | 21. | The villain shatters through a plate | The villain shatters through a plate |
| 9 | | glass window, grabs, stabs, and | glass window, grabs, stabs, and |
| 10 | | drags a lead character away into the | drags a lead character away into |
| 11 | | night. | the night. |
| 12 | 22. | Once it becomes apparent that a | Once it becomes apparent that a |
| 13 | | speedy escape is necessary, the | speedy escape is necessary, the |
| 14 | | friends' ability to leave the | friends' ability to leave the |
| 15 | | controlled "set" is limited (when the | controlled "set" is limited (when |
| 16 | | car is destroyed) by manipulating | the tunnel is destroyed) by |
| 17 | | outside forces. | manipulating outside forces. |
| 18 | 23. | It appears that the group is stuck | It appears that the group is stuck |
| 19 | | since the SUV has been destroyed, | since the tunnel has been |
| 20 | | but the athletic, handsome friend | destroyed, but the athletic, |
| 21 | | (Ian) has a risky plan (to leave the | handsome friend (Curt) has a risky |
| 22 | | others and go off into the woods to | plan (to leave the others and jump |
| 23 | | recover the SUV.) Before initiating | a gorge on his dirt bike.) Before |
| 24 | | his plan, he promises valiantly, "I'm | initiating his plan, he promises |
| 25 | | not gonna leave you. I'll get the car | valiantly, "I'm coming back here." |
| 26 | | and come back for you." | |

| | | | |
|----|-----|--|--|
| 1 | 24. | Ian dies while attempting to execute his plan. | Curt dies while attempting to execute his plan |
| 2 | | | |
| 3 | 25. | After Ian's "death", Julie and Matt are alone together and Matt begins to talk about how he is going to save the two of them. Julie is unresponsive and feels defeated by the overwhelming force and omnipresence of the "killer." She begins to make disheartened statements such as "[t]here's nothing we can do." | After Curt's death, Dana and Holden are alone together and Holden begins to talk about how he is going to save the two of them. Dana is unresponsive and feels defeated by the overwhelming force and omnipresence of the killer. She begins to make disheartened statements such as "[t]hat won't work. Something will happen." |
| 4 | | | |
| 5 | 26. | Matt is not ready to give up, and he will not allow Julie to either. Matt proposes an escape by fleeing through the darkness of the woods. He states "What if we turn off all the outside lights and make a run for the woods?" | Holden is not ready to give up, and he will not allow Dana to either. Holden proposes an escape by fleeing through the darkness of the woods. He states "[W]e just leave the roads all together. Drive as far as we can into the forest, and then we go on foot from there." |
| 6 | | | |
| 7 | 27. | Male lead (Ian) gets attacked and "killed" off outside the cabin by homicidal Brinkley father that previously lived there. | Male lead (Holden) gets attacked, and killed off outside the cabin by presumably homicidal Buckner father (zombie version) that previously lived there. |
| 8 | | | |
| 9 | | | |
| 10 | | | |
| 11 | | | |
| 12 | | | |
| 13 | | | |
| 14 | | | |
| 15 | | | |
| 16 | | | |
| 17 | | | |
| 18 | | | |
| 19 | | | |
| 20 | | | |
| 21 | | | |
| 22 | | | |
| 23 | | | |
| 24 | | | |
| 25 | | | |
| 26 | | | |
| 27 | | | |
| 28 | | | |

| | | | |
|----|-----|--|---|
| 1 | 28. | Considering the night's events, lead male (Matt) begins to suspect that the group is being set up, monitored, and manipulated by outside forces. | Considering the night's events, lead male (Marty) begins to suspect that the group is being set up, monitored, and manipulated by outside forces. |
| 2 | | | |
| 3 | | | |
| 4 | | | |
| 5 | | | |
| 6 | 29. | Lead male (Matt) accidentally knocks over a ceramic vase and discovers a hidden camera inside the shattered pieces, set up to observe the friends. He holds the tiny black camera in his hand and stares directly into the lens in bewilderment. | Lead male (Marty) accidentally knocks over a ceramic lamp and discovers a hidden camera inside the shattered pieces, set up to observe the friends. He holds the tiny black camera in his hand and stares directly into the lens in bewilderment. |
| 7 | | | |
| 8 | | | |
| 9 | | | |
| 10 | | | |
| 11 | | | |
| 12 | | | |
| 13 | | | |
| 14 | 30. | The persons behind the scenes see all of this and fret, thinking they've been made. Lead male (Matt) has a moment of time to consider the camera, who put it there and why. The people behind the scenes don't know what to do, but then the killer appears and distracts the attention of the male character. | The persons behind the scenes fret, thinking they've been made. Lead male (Marty) has a moment of time to consider the camera, who put it there and why. The people behind the scenes don't know what to do, but then the killer appears and distracts the attention of the male character. |
| 15 | | | |
| 16 | | | |
| 17 | | | |
| 18 | | | |
| 19 | | | |
| 20 | | | |
| 21 | | | |
| 22 | | | |
| 23 | 31. | At the end of the story, only two of the friends remain—no couples, one male lead (Matt) and one female lead (Julie). They cling to each other and discuss a last resort | At the end of the film, only two of the friends remain—no couples, one male lead (Marty) and one female lead (Dana). They cling to each other and discuss a last resort |
| 24 | | | |
| 25 | | | |
| 26 | | | |
| 27 | | | |
| 28 | | | |

| | | | |
|----|-----|--------------------------------------|------------------------------------|
| 1 | | escape plan. | escape plan. |
| 2 | 32. | It is revealed that the friends have | Lead character (Marty) suspects |
| 3 | | been manipulated by third parties | that he is being manipulated by a |
| 4 | | for a new form of reality | reality television show. |
| 5 | | filmmaking. | |
| 6 | 33. | The “director” (reality film | The “Director” (project director) |
| 7 | | director) appears from the sidelines | appears from the sidelines and |
| 8 | | and reveals the twist: unbeknownst | reveals the twist: unbeknownst to |
| 9 | | to the lead characters they have | the lead characters they have been |
| 10 | | been watched and manipulated by a | watched and manipulated by a |
| 11 | | crew of others for the enjoyment of | crew of others for the enjoyment |
| 12 | | viewers. | of viewers. |

13

14 34. PLAINTIFF is further informed and believes, and on that basis alleges,

15 that DEFENDANTS’ copying of the Book infringes PLAINTIFF’s copyright and

16 that DEFENDANTS are distributing, and intend to continue to distribute,

17 unauthorized works similar to and derivative of the Book.

18 35. The natural, probable, and foreseeable result of DEFENDANTS’

19 wrongful conduct has been, and will continue to be, to deprive PLAINTIFF of the

20 benefits deriving from the exploitation of the copyrighted literary work, and to

21 deprive PLAINTIFF of the goodwill that would necessarily be associated

22 therewith.

23 36. PLAINTIFF is informed and believes, and on that basis alleges, that

24 PLAINTIFF has lost, and will continue to lose, substantial revenues from the

25 production and sale of the Film and has sustained, and will continue to sustain,

26 damages as a result of DEFENDANTS’ wrongful conduct and DEFENDANTS’

27 production and sale of their infringing Film and other unauthorized works

28 derivative of the Book. PLAINTIFF is further informed and believes, and thereon

1 alleges, that DEFENDANTS' wrongful conduct has deprived, and will continue to
 2 deprive, PLAINTIFF of opportunities for expanding the goodwill associated with
 3 the Book.

4 37. By their actions alleged above, DEFENDANTS have infringed and will
 5 continue to infringe PLAINTIFF's copyright in and relating to the Book by
 6 producing, distributing, and placing upon the market products which are derivative
 7 of PLAINTIFF's copyrighted Book.

8 38. PLAINTIFF is further entitled to recover from DEFENDANTS the
 9 damages, including attorney's fees and costs, PLAINTIFF has sustained and will
 10 sustain, and any gains, profits, and advantages obtained by DEFENDANTS as a
 11 result of DEFENDANTS' acts of infringement alleged above. At present, the
 12 amount of such damages, gains, profits, and advantages cannot be fully ascertained
 13 by PLAINTIFF, but PLAINTIFF is informed and believes, and thereon alleges,
 14 that such damages equal or exceed \$10,000,000.00.

15 **PRAYER FOR RELIEF**

16 **WHEREFORE**, PLAINTIFF prays for judgment against DEFENDANTS as
 17 follows:

18 1. That the Court find that DEFENDANTS have infringed PLAINTIFF's
 19 copyrights in the Book;

20 2. That the Court find a substantial likelihood that DEFENDANTS will
 21 continue to infringe PLAINTIFF's copyrights in the Book unless enjoined from
 22 doing so;

23 3. That DEFENDANTS, their directors, officers, agents, servants,
 24 employees, and all other persons in active concert or privity or in participation with
 25 them, be enjoined from directly or indirectly infringing PLAINTIFF's copyrights in
 26 the Book or continuing to market, offer, sell, dispose of, license, lease, transfer,
 27 display, advertise, reproduce, develop, or manufacture any works derived or copied
 28 from the Book or to participate or assist in any such activity;

1 4. That DEFENDANTS, their directors, officers, agents, servants,
2 employees, and all other persons in active concert or privity or in participation with
3 them, be enjoined to recall from all distributors, wholesalers, jobbers, dealers,
4 retailers, and distributors, and all others known to DEFENDANTS, any originals,
5 copies, facsimiles, or duplicates of any works shown by evidence to infringe any
6 copyright in the Book;

7 5. That DEFENDANTS be enjoined to deliver upon oath, to be
8 impounded during the pendency of this action and destroyed pursuant to judgment
9 herein, all originals, copies, facsimiles, or duplicates of any work shown by the
10 evidence to infringe any copyright in the Book;

11 6. That DEFENDANTS be required to file with the Court and to serve on
12 PLAINTIFF, within 30 days after service of the Court's order as herein prayed, a
13 report in writing under oath setting forth in detail the manner and form in which
14 DEFENDANTS have complied with the Court's order;

15 7. That at PLAINTIFF's election, if so made, judgment be entered for
16 PLAINTIFF and against DEFENDANTS for PLAINTIFF's actual damages
17 according to proof, and for any profits attributable to infringements of
18 PLAINTIFF's copyrights in the Book, in accordance with proof.

19 8. That at PLAINTIFF's election, if so made, judgment be entered for
20 PLAINTIFF and against DEFENDANTS for statutory damages based upon
21 DEFENDANTS' acts of infringement, pursuant to the Copyright Act of 1976, 17
22 U.S.C. § 101, *et seq.*;

23 9. That DEFENDANTS be required to account for all of their gains,
24 profits, and advantages derived from DEFENDANTS' acts of infringement and for
25 their other violations of law alleged herein;

26 10. That all gains, profits, and advantages derived by DEFENDANTS
27 from their acts of infringement and other violations of law alleged herein be
28 deemed to be held in constructive trust for the benefit of PLAINTIFF;

1 11. That PLAINTIFF have judgment against DEFENDANTS for
2 PLAINTIFFS' costs and attorney's fees;

3 12. That the Court grant such other and further relief as the Court deems
4 just and proper under the circumstances.

5
6 DATED: May 19, 2015

Respectfully submitted,

7 MATERN LAW GROUP

8
9 By: /s/ Matthew J. Matern

10 MATTHEW J. MATERN

11 TAGORE O. SUBRAMANIAM

Attorneys for Plaintiff

12 PETER GALLAGHER

13
14 **DEMAND FOR JURY TRIAL**

15 PLAINTIFF hereby demands a jury trial with respect to all issues triable of
16 right by jury.

17
18 DATED: May 19, 2015

Respectfully submitted,

19 MATERN LAW GROUP

20
21 By: /s/ Matthew J. Matern

22 MATTHEW J. MATERN

23 TAGORE O. SUBRAMANIAM

Attorneys for Plaintiff

24 PETER GALLAGHER